



This Bill Analysis reflects the contents of the bill as it was presented in committee.

# SENATE BILL 660: Regulate Dissemination of Booking Photograph.

2021-2022 General Assembly

<b>Committee:</b> Senate Rules and Operations of the Senate	<b>Date:</b> April 22, 2021
<b>Introduced by:</b> Sens. Lazzara, Britt, Nickel	<b>Prepared by:</b> Jennifer H. Bedford
<b>Analysis of:</b> Second Edition	Staff Attorney

**OVERVIEW:** Senate Bill 660 would regulate the publication and removal of booking photographs.

### BILL ANALYSIS AND CURRENT LAW:

**G.S. 132-1** provides generally, that any records held by a public entity are public records. Booking photos are not listed in any exception to the public records requirement.

**Section 1 of Senate Bill 660** would regulate the disclosure of booking photos by:

- Explicitly stating that booking photos are NOT a public record.
- Prohibiting a law enforcement agency from providing a copy of a booking photo unless:
  1. For apprehension, investigation, or training purposes.
  2. Discovery requirements.
  3. Criminal proceedings prior to discovery.
  4. Court order.
  5. To fulfill a proper application.
- Requiring an application with sworn affidavit, in order for a person to receive a booking photo.
- Establishing a duty to remove and destroy the photo from the website or publication or request, if there has been a dismissal, expunction, etc.
- Creating a civil action for failure to remove a booking photo from a publication or website.

**Section 2 of Senate Bill 660** would:

- Make conforming changes to the existing law prohibiting dissemination of certain criminal history information, to apply to booking photos.
- Provide that a publication or website must remove and destroy a booking photo if:
  1. There is no conviction.
  2. The person can provide documentation of dismissal, etc.
- Create a \$100/day damages for a civil claim if the photo is not removed.

**Section 3 of Senate Bill 660** lists booking photos in records that are exempt from public records.

**Section 4 of Senate Bill 660** directs the alphabetical organization of definitions amended in Section 3.

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**EFFECTIVE DATE:** Subsections (b) and (c) of G.S. 15A-502.01, as enacted by Section 1 of this act, become effective when they become law, and apply to photographs taken on or after that date. The remainder of this act becomes effective October 1, 2021.